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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/572,915

03/21/2006

Martin Fangmeier

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---|--|--|
| Office Action Summary | Application No. 10/572,915 | Applicant(s) FANGMEIER, MARTIN | |
| | Examiner Ramesh Krishnamurthy | Art Unit 3753 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,8,9,10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This office action is responsive to communications filed January 25, 2008.

Claims 1, 2 and 7 – 10 are pending.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2 and 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eplett et al. in view of GB 661,479.

Eplett et al. discloses a backflow preventer (Figs. 1 - 5), comprising an insert housing (7) with a housing interior in which a valve member (13) is located which contacts a valve seat (12) in a closed position thereof and which can be moved against a restoring force (due to a spring (10)) from the closed position into an open position, wherein the housing interior has, in a movement zone of the valve member (13), an interior section, which has a greater open cross section relative to an outer periphery of the valve member, wherein for play-free guidance of the valve member (13) there is a spring-elastic valve member guide (19, 21), which is effective between the valve member (13) and a housing inner wall (8) surrounding the interior section, wherein the valve member guide (19, 21) is effective at least in the movement zone of the valve member (13) in proximity to the valve seat, wherein the valve member guide (19, 21) includes at least two spring arms (21), which contact the housing inner wall (8) and/or the valve member (13), wherein the spring arms (21) point in a direction away from the valve seat (12) with the free spring arm ends, wherein the spring arms (10) are spaced

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apart from each other uniformly in a peripheral direction of the backflow preventer, wherein a ring seal (between (12) and (16)), which is effective between the valve member and the valve seat in the closed position, is provided on a periphery of the valve member and the spring arms (21) are arranged on a side of the ring seal facing away from the valve seat, the valve member has on a side facing away from the valve seat (12) a guide rod (23), which is guided displaceably in a guide opening of the insert housing (7). It is noted that recitations pertaining to water line or a sanitary water discharge armature are reflective of intended use that the device of Eplett et al. is inherently capable of.

The patent to Eplett et al. discloses the claimed invention with the exception of explicitly disclosing the spring arms to be formed on an inside surface of the insert housing.

The document GB'479 discloses a valve arrangement wherein a spring disc having spring arms (37) is formed on an inside surface of the insert housing (20) for the purpose of guiding the valve in its movement.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in Eplett et al. spring arms to be formed on an inside surface of the insert housing for the purpose of guiding the valve in its movement, as evident from GB '479. It should be noted that in Eplett et al. the spring arms are formed on the valve and by replacing such a construction with arms that are formed on the inside surface of the insert housing is merely an alternative arrangement that is known in the art.

Response to Arguments

Applicant's arguments filed January 25, 2008 have been fully considered but they are not persuasive. Applicant's argument concerning the combination of Eplett et al. and GB'479 are not persuasive in that GB '479 clearly teaches (page 1, lines 80 – 85) that the spring arms (37) do guide the valve. In regard to the argument that GB '479 and Eplett are non-analogous, it is noted that both GB '479 and Eplett et al. are concerned with the same problem of guiding the valve and are therefore analogous (See MPEP § 2141.01(a) [R-6] IV. ANALOGY IN THE MECHANICAL ARTS). In regard to the implicit argument that the examiner has taken official notice in stating above, "It should be noted that in Eplett et al. the spring arms are formed on the valve and by replacing such a construction with arms that are formed on the inside surface of the insert housing is merely an alternative arrangement that is known in the art", it is examiner's intention to point out that the arrangement in Eplett et al. is a mere reversal of parts in comparison to the arrangement in GB '479 as far as the forming of the spring arms on the housing. The courts have generally held that reversal of parts is an expedient that is obvious to one of ordinary skill in the art. *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson, can be reached on (571) 272 – 4887. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Ramesh Krishnamurthy/

Ramesh Krishnamurthy
Primary Examiner
Art Unit 3753